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PUBLIC SERVICE COMMISSION
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**RULES OF PRACTICE OF THE
ALABAMA PUBLIC SERVICE COMMISSION**

DOCKET 33046

ORDER AMENDING RULES OF PRACTICE

BY THE COMMISSION:

On September 11, 2020, the Commission initiated a rulemaking proceeding and proposed making electronic filing requirements a part of the Commission's Rules of Practice by amending Rule 4, adding the following after subpart (A)(2):

As an alternative to filing pursuant to subparts (1) and (2) above, documents may be filed electronically using links available on the Commission's website. To be considered a valid filing, all documents shall be in text-searchable public document format (pdf). A hard-copy of all electronically-filed documents shall be filed with the Secretary of the Commission in accordance with subpart (1). Any document filed electronically, in compliance with this procedure, is deemed received by the Commission when it is received electronically as long as the hard copy of the filing is received by the Secretary of the Commission by 5 PM on the next business day. In the event the hard-copy of the filing is not received on the next business day, the filing will be deemed as received on the date that the hard-copy is received by the Secretary of the Commission.

This proposed amendment to the rule describes an electronic filing process that is very similar to the process established in a 2005 order of the Commission, which adopted temporary rules of practice regarding the electronic filing of documents. Despite the temporary designation, the rules included in the 2005 order have governed the electronic filing of documents since that time. There are some differences between the temporary electronic filing

rule and the proposed rule. The rule, as proposed in the September 11, 2020 order, did not include an option for filing via CD. Also, the proposed rule did not require submission of the “original and one (1) copy” but would require the filing of a “hard copy” along with the electronic filing.

To solicit feedback on these proposed changes to the Rules of Practice, the Commission established a comment period, with initial comments due by October 1, 2020 and reply comments due by October 23, 2020. The Commission received timely comments from the Southern Environmental Law Center (“SELC”) and Alabama Power Company (“Alabama Power”). All comments were posted on the Commission’s website.

Comments

In its comments, the SELC recommends three changes to the proposed rule. First, the SELC requests that the Rules of Practice allow the required hard copy to be *postmarked* by the next business day rather than *received* by the next business day. It asserts that the proposed rule’s requirement for next-day receipt for timely filing “creates unnecessary administrative burdens, costs and increases the chances for improper filing,” adding that this requirement often requires overnight mail for out-of-town filers, which further increases the costs. As an alternative, the SELC proposes that the Commission could eliminate the hard copy filing requirement. Second, it suggests that the rule should clarify that electronic filing is permitted before or on the date the filing is due, until 11:59 PM on the due date. Third, the SELC requests that the Commission increase the 10 MB size limit on electronically-filed documents.

In its comments, Alabama Power also offered three recommendations to the proposed rule. First, Alabama Power asserts that the Commission should authorize the use of electronic signatures. It remarks that the use of electronic signatures “has become a commonly accepted

means of authenticating a document submitted to an Alabama judicial body or an administrative body” and federal agencies such as the Federal Energy Regulatory Commission. Alabama Power represents that allowance of electronic signatures would not compromise the integrity of the proceedings, adding that the Commission’s electronic filing system already provides sufficient assurance of the filer’s identity through the use of a login and password. Second, it states that the rules should narrow the hard copy requirement of the proposed rule, limiting the hard copy requirement to certain situations such as the initiation of a proceeding or when statutorily required. Third, Alabama Power urges the Commission to clarify an electronic filing must be submitted by the close of business on the day that it is due.

Discussion

Hard Copy Requirement. The SELC and Alabama Power suggest changes to the requirement to submit a hard copy of the electronic filing, either by eliminating the requirement or limiting it to certain situations. At this time, the Commission declines to eliminate or limit the hard copy filing requirement because Commission Staff utilizes the hard copies to process and review filings.

Timing of Receipt of Hard Copy. The Commission does not find that the requirement for next-day receipt of the hard copy filing creates an unnecessary administrative burden or increases the chances for improper filing. The administrative work related to providing a hard copy filing remains the same whether it is due on the next business day or postmarked by the next business day. The filer can reduce administrative costs and chances for improper filing through mindfulness of the filing deadlines.

Time Deadline for Electronic Filing. The Commission agrees with the SELC and Alabama Power that the rule should clarify the time deadline for the electronic filing. Therefore,

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the proposed electronic filing requirements in Rule 4 will be amended as follows: “Any document filed electronically, in compliance with this procedure, is deemed received by the Commission on the day it is received electronically, *with the end of the day being 11:59 PM Central Time*, as long as the hard copy of the filing is received by the Secretary of the Commission by 5:00 PM Central Time on the next business day.

Size Limit. Size restrictions on the transfer and storage of electronic documents have changed since the Commission issued the temporary rules in 2005. After consulting with the information technology administrators, the Commission finds that the size limits on electronically-filed documents should be increased from 10 MB to 40 MB.

Electronic Signatures. The Commission agrees with Alabama Power that the use of electronic signatures is now a commonly accepted means of authenticating a document and that allowing electronic signatures for routine filings with the Commission would not compromise the integrity of proceedings. Further, electronic signatures are not generally prohibited by the relevant Alabama law or Commission regulations. However, there may be specific occasions where a wet signature is necessary, such as with motor carrier applications. Therefore, the Commission finds that Rule 4 is due to be amended to include the following: “Electronic signatures, indicated by ‘s/’ followed by the name of the filer, shall be allowed for documents filed through the electronic filing process, unless a wet signature or other authentication is specifically required by law or other regulation.”

Conclusion

After consideration of the filed comments, the Commission amends Rule 4 of the Rules of Practice, adding the following after subpart (A)(2):

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(3) As an alternative to filing pursuant to subparts (1) and (2) above, documents may be filed electronically using links available on the Commission's website and complying with the following procedures:

(a) To be considered a valid filing, all documents shall be in text-searchable public document format (pdf).

(b) Documents electronically filed shall be no larger than 40 MB in size. Any document larger than 40 MB must be broken into separate parts with no part being larger than 40 MB.

(c) A hard-copy of all electronically-filed documents shall be filed with the Secretary of the Commission in accordance with subpart (1).

(d) Any document filed electronically, in compliance with this procedure, is deemed received by the Commission on the day it is received electronically, with the end of the day being 11:59 PM Central Time, as long as the hard copy of the filing is received by the Secretary of the Commission by 5:00 PM Central Time on the next business day. In the event the hard-copy of the filing is not received on the next business day, the filing will be deemed as received on the date that the hard-copy is received by the Secretary of the Commission.

(e) Electronic signatures, indicated by "s/" followed by the name of the filer, shall be allowed for documents filed through the electronic filing process, unless a wet signature or other authentication is specifically required by law or other regulation.

With the addition of the above, the part of Rule 4 that was heretofore labeled as Subpart (A)(3) shall be renumbered as Subpart (A)(4).

IT IS SO ORDERED BY THE COMMISSION, that Rule 4 of the Commission's Rules of Practice shall be amended to include the above-described electronic filing requirements.

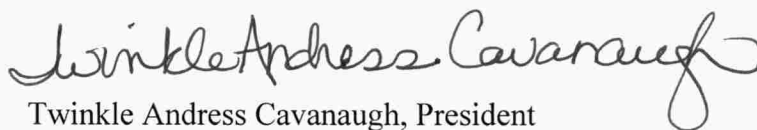
IT IS FURTHER ORDERED, that jurisdiction in this cause is hereby retained for the issuance of any further order or orders as may appear to be just and reasonable in the premise.

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IT IS FURTHER ORDERED, that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 20th day of April, 2021.

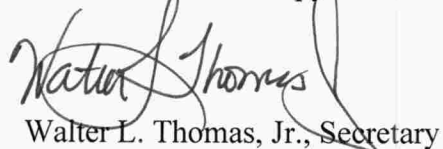
ALABAMA PUBLIC SERVICE COMMISSION


Twinkle Andress Cavanaugh, President


Jeremy H. Oden, Commissioner

Chris "Chip" Beeker, Jr., Commissioner ***

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary

***Commissioner Beeker was unable to participate and vote due to illness.